

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JULIUS LEE JACKSON,

No. C 12-0123 WHA (PR)

Petitioner,

**ORDER GRANTING MOTION TO
DISMISS**

v.

KAMALA HARRIS,

(Docket No. 10)

Respondent.

Petitioner, a California prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254 challenging state court convictions from 1997 and 2002. The claims pertaining to the conviction from 1997 were dismissed. *See Lackawanna County Dist. Attorney v. Coss*, 532 U.S. 394, 403-04 (2001). Respondent was ordered to show cause why the petition should not be granted with respect to the conviction from 2002. Respondent has filed a motion to dismiss the petition on the grounds that the instant petition is the second petition for a writ of habeas corpus challenging the same conviction pursuant to 28 U.S.C. 2254. His prior petition, like the instant petition, challenged a conviction obtained in San Mateo County Superior Court in 2002. The prior petition, *Jackson v. Kirkland*, No. 05-4889 MHP (PR), was denied on its merits in 2008. Thereafter, the United States Court of Appeals denied a certificate of appealability and the United States Supreme Court denied a petition for a writ of certiorari.

A second or successive petition may not be filed in a federal district court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order


1 authorizing this court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A). Petitioner has
2 not sought or obtained such an order from the Ninth Circuit. Petitioner argues in his traverse
3 that he is actually innocent and that there has been a miscarriage of justice. Petitioner may
4 make such arguments in the Ninth Circuit when he seeks authorization to file a second or
5 successive petition.

6 Accordingly, this petition is **DISMISSED** without prejudice to refile if petitioner obtains
7 the necessary order from the Ninth Circuit.

8 The clerk shall enter judgment and close the file.

9 **IT IS SO ORDERED.**

10 Dated: July 9, 2012.

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13 WILLIAM ALSUP
14 UNITED STATES DISTRICT JUDGE
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